BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF	)	
	)	
800 DATA BASE ACCESS TARIFFS AND THE 800 SERVICE MANAGEMENT SYSTEM TARIFF	)	CC DOCKET NO. 93-129
	)	

OPPOSITION OF FIRST FINANCIAL MANAGEMENT CORPORATION TO DIRECT CASES OF LOCAL EXCHANGE CARRIERS

First Financial Management Corporation ("FFMC"), by its attorneys, hereby submits its opposition to the direct cases submitted in the above-captioned proceeding[1/] by various local exchange carriers ("LECs"). FFMC will be harmed if the LECs' excessively high and insufficiently justified 800 database "basic" per query rates are not reduced to just and reasonable levels.

I. BACKGROUND

FFMC is a major information services company which offers a broad range of data processing and related services to a large and diverse customer base. With annual sales of more than $1 billion, FFMC is a leader in processing transactions for financial institutions, providing data imaging, micrographics,

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1/ 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 8 FCC Rcd 5132 (1993) ("Designation Order").

electronic data base services, and debt collection, as well as health and pharmaceutical claims processing. FFMC has its own 800 number and has been an active participant in 800 service proceedings.[2]

In the Second Report and Order in CC Docket No. 86-10,[3] the Commission authorized the LECs to set the rates for "basic" 800 database access services on a per-query basis. The Commission also required the LECs to price optional "vertical" 800 services so that they "reasonably reflect the nature of the underlying costs." 8 FCC Rcd at 909. The FCC concluded that 800 database service is properly classified as a restructured service under the price cap rules and permitted the LECs to treat as "exogenous" only their reasonable basic 800 database costs "specifically incurred for the implementation and operation of the 800 database system." Id. at 911.

On March 12, 1993, FFMC filed a petition for reconsideration of the Second Report and Order. FFMC argued that the Commission's prescribed rate structure does not sufficiently constrain the LECs' incentive and ability to price basic 800 database service in excess of the actual costs incurred in

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[2] See, e.g., Reply Comments of FFMC to Petition for Expedited Declaratory Ruling, CC Docket No. 86-10, filed July 17, 1992; Comments of FFMC in Support of Petition for Expedited Declaratory Ruling, CC Docket No. 86-10, filed October 1, 1992; Comments of FFMC in Support of Petition for Expedited Action, CC Docket No. 86-10, filed October 5, 1992; Petition For Reconsideration, CC Docket No. 86-10, filed March 12, 1993; Consolidated Petition To Reject [800 DataBase Tariffs], Ameritech Transmittal No. 698, filed March 18, 1994.

[3] Provision of Access for 800 Service, 8 FCC Rcd 907 (1993).

providing the service. FFMC demonstrated that it is unreasonable that all basic 800 service costs be recovered only by a per query charge and showed that the LECs should not be allowed to treat their basic costs as exogenous under the price cap rules. FFMC explained that transaction processors like itself use 800 services for large numbers of generally very short calls and, therefore, would be disproportionately harmed by excessively priced basic per query charges. FFMC requested that the Commission allow 800 service users to utilize the "NXX" form of access as an alternative to mandatory 800 database access service. FFMC's petition for reconsideration still is pending before the Commission.

The LECs filed tariffs governing 800 database access service on March 1, 1993. The Commission allowed those tariffs to become effective subject to the instant investigation.[4] The LECs' Direct Cases demonstrate that the LECs have priced their basic 800 database access service excessively high, making the service unreasonably overpriced for transaction processors such as FFMC whose calls typically are much shorter than average. As a result of this investigation, the Commission should remedy the disproportionate amount of basic 800 database access costs being borne by transaction processors, should reduce the amount of so-called exogenous costs allocated to the 800 database access

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[4] <u>Bell Operating Companies' Tariff for the 800 Service Management System and 800 Data Base Access Tariffs</u>, 8 FCC Rcd 3242.

service, and take such other actions as will reduce basic 800 database per query charges to just and reasonable levels.

II. THE LECS HAVE CLAIMED AN EXCESSIVE AMOUNT OF EXOGENOUS 800 DATABASE ACCESS COSTS

The LECs have classified excessive amounts of costs as exogenous and, thus, have inflated the claimed costs of basic 800 database access. As the Commission is aware, 800 service is just one application of SS7 network architecture. Because many other regulated and nonregulated services eventually also will utilize SS7 architecture and facilities, the LECs should not be allowed to shift a disproportionate amount of costs that will be shared by other services and applications to 800 database access.

In the Second Report and Order, the Commission expressly limited the type of costs that may be classified as exogenous for 800 database technology:

> [E]xogenous treatment will only extend to those costs incurred specifically for the implementation of basic 800 database service. Those costs which are not reasonable and which are not specifically incurred for the implementation and operation of the 800 database system, such as core SS7 costs, will not be afforded exogenous cost treatment. Nor will the costs of accelerating SS7 deployment to meet our implementation timetable be granted exogenous treatment. We anticipate that exogenous treatment will be accorded to those costs associated with: Service Control Points (SCPs), the Services Management System (SMS), and links between SCPs and SMS, as well as between Signal Transfer Points (STPs) and SCPs, to the extent such costs are directly attributable to 800 database service .... the burden is on the LECs to demonstrate that [claimed exogenous] costs are incurred specifically

for the implementation of basic 800 database service.[5]

The LECs have not complied with the Commission's directive. For example, Bell Atlantic has not justified the inclusion of overhead in its calculation of claimed exogenous costs.[6] Other LECs found no justification for including overhead,[7] and Bell Atlantic cannot distinguish its situation from that of the other carriers.

Moreover, the full costs of SCPs, SMS and the links between SCPs and SMS or between STPs and SCPs may receive exogenous treatment only if those costs are incurred solely for the implementation of basic date base service. The LECs have not satisfied their burden of proof on this issue. To the extent that facilities and software will be utilized to provide services other than basic 800 database access, those costs must be identified separately and denied exogenous treatment. Because software right to use (RTU) fees and STPs are widely used for SS7 out-of-band signalling associated with existing services, the Commission must not accept the LECs' claims that much of their STP, RTU and link costs are attributable solely to basic 800 database access. For example, certain RTUs and tandem upgrades were acquired to meet the Commission's new access time

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[5] 8 FCC Rcd at 911.

[6] Direct Case of Bell Atlantic, Appendix B at 3.

[7] See Direct Cases of BellSouth Exhibit 3 at 2; Ameritech Attachment I at 4; Pacific Bell at 9-10; US West at 6; GTE at 15; NYNEX Attachment A at 3; Southwestern Bell at 17.

standards.[8] Those costs and all other costs that support existing or planned services other than basic 800 database should be denied exogenous treatment.

III. THE LECS HAVE NOT JUSTIFIED THEIR ALLOCATION OF COSTS BETWEEN BASIC AND VERTICAL SERVICES

The Commission must examine the LECs' procedures for allocating the costs of 800 database access service between basic 800 database service and 800 database vertical service elements. The LECs have the incentive to shift as many of the costs to the basic query service (for which they have a monopoly) and to minimize the costs allocated to vertical services (for which they face competition).

In fact, most of the LECs unreasonably have implemented only minimal rate differentials between the monopoly basic service and competitive vertical service features. Some of the LECs concede that they have allocated only the incremental costs of vertical features to the vertical services, thereby loading all fixed costs upon the monopoly basic service.[9] Such an allocation procedure is unreasonable.

Other LECs allocate costs between basic per query service and vertical features on the basis of demand for vertical features. This procedure also unreasonably shifts costs to basic service ratepayers because the amount of fixed costs attributable

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8/ See, e.g., Pacific Bell Direct Case at 10-11.

9/ See, e.g., Ameritech Direct Case at 11.

to vertical features does not vary with demand. Because additional capacity is required to provide vertical services, the fixed costs of such additional capacity should be borne by vertical service users, not monopoly ratepayers.

In any event, the LECs' vertical features demand calculations are inherently unreliable because they are based on unsubstantiated "assumptions."[10/] Because understated vertical feature demand in the study period results in a one-time overallocation to basic service of costs eligible for exogenous treatment[11/], the Commission should not accept the LECs' assumptions regarding vertical service demand without rigorous scrutiny.

IV. THE LECS' CALCULATIONS OF BASIC PER-QUERY DEMAND ARE UNRELIABLE BECAUSE THEY ARE BASED ON UNJUSTIFIED ASSUMPTIONS

An important factor in the calculation of basic 800 rates is the level of projected demand for basic 800 database access. The LECs have used widely varying methods of determining projected "per query" 800 database access demand. At least one LEC based its projected per query demand on historical growth assumptions based on the fact that 800 is a rapidly growing service.[12/] Other LECs projected demand growth less than

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10/ See, e.g., BellSouth Direct Case at 5 (assume 10 percent of queries from larger IXCs and 20 percent of queries from smaller IXCs would employ complex vertical features).

11/ See, e.g., Ameritech Direct Case at 10 ('The exogenous cost treatment Ameritech used .... is a one-time event').

12/ See, e.g., Ameritech Direct Case at 11.

historical levels, claiming that 800 is a mature service;[13] and other LECs projected no demand growth at all.[14] Still other LECs used demand growth assumptions but did not rely exclusively on past performance.[15] Moreover, certain LECs used a discount rate to levelize demands,[16] while others did not.[17] These differing demand projection methodologies for basic 800 database access service are not all equally valid and have resulted in widely disparate rate levels for basic 800 per query service.

The Commission must investigate thoroughly the LEC calculations that might understate per query demand and, thus, underlie the LECs' excessive basic per query rates. For example, to derive the projected demand for basic 800 database service, several LECs fail to use direct evidence of the actual number of 800 calls placed. Instead, those LECs use an indirect method of determining demand by dividing the number of 800 minutes of use (MOU) by a claimed average length of an 800 call that is far greater than the average transaction processing call.[18] The

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13/ See, e.g., NYNEX Direct Case at 10.

14/ Pacific Bell Direct Case at 14; SWB Direct Case at 10.

15/ Ameritech Direct Case, Attachment I, p. 1; Bell Atlantic Direct Case at 6; GTE Direct Case at 11.

16/ Ameritech Direct Case, Attachment I, p. 1; GTE Direct Case at 13.

17/ US West Direct Case at 5; Pacific Bell Direct Case at 14; BellSouth Direct Case at Exhibit 3.

18/ See, e.g., Direct Case of Southwestern Bell at 15 (average 800 call length 2.75 minutes); BellSouth at Exhibit 1, p. 4; Bell Atlantic at Appendix B, p. 2 (average 800 call length 2.32 (continued...)

accuracy of the LEC estimates of per query demand using this indirect methodolgy must be verified. Because the number of electronic transaction validations has been growing consistently over the past decade, the LECs' use of 800 per query demand estimates when actual call data are available should not be permitted.

V. CONCLUSION

For the reasons described above, the Commission should require the LECs to reduce their basic 800 database per query rates to just and reasonable levels.

Respectfully submitted,

FIRST FINANCIAL MANAGEMENT CORPORATION

By: Randolph J. May

Randolph J. May
Timothy J. Cooney

Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404
(202) 383-0100

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18/ (...continued)
minutes). As discussed previously, transaction processors use 800 service for very large numbers of very short duration calls.

CERTIFICATE OF SERVICE

I, Marcia Towne Devens, do hereby certify that true and correct copies of the foregoing document, "Opposition Of First Financial Management Corporation To Direct Cases Of Local Exchange Carriers," were served by hand delivery this 15th day of April, 1994, on the following:

Tariff Division
Federal Communications Division Commission
Room 518
1919 M Street, N.W.
Washington, D.C. 20554

Copy Contractor
Room 246
1919 M Street, N.W.
Washington, D.C. 20554

Marcia Towne Devens